



Food Retail Expansion to Support Health

# FRESH CORE APPLICATION

Submit your electronically completed Core Application via email to your assigned Project Manager as a Word Document file or a Word Document saved as a PDF.

## A. APPLICANT OVERVIEW

Applicant Name (the "Applicant"): Spenceran, Inc.	Name of operating company (if different from Applicant): Food Bazaar
Operating company Address: 3302 Skillman Ave Long Island City, NY 11101	Website address: www.foodbazaar.com
EIN #: [REDACTED]	NAICS Code: 445110
State and date of incorporation or formation: NY	Qualified to conduct business in NY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Applicant is (check one of the following, as applicable):	
<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership
<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Natural Person
	<input checked="" type="checkbox"/> Business Corporation
	<input type="checkbox"/> S Corporation
	<input type="checkbox"/> Other:
Is the Applicant publicly traded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Is the Applicant affiliated with a publicly traded company? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, name the affiliated company:

## B. APPLICANT CONTACT INFORMATION

	Name/Title	Company	Address	Email	Phone	Primary <sup>1</sup>
<b>Applicant Contact Person</b>	Edward Suh/ Executive VP	Bogopa Service Corp	3302 Skillman Ave Long Island City, NY 11101	<a href="mailto:Edward.suh@bogopausa.com">Edward.suh@bogopausa.com</a>	[REDACTED]	<input type="checkbox"/>
<b>Attorney</b>	Allen Perlstein	HK&P, LLP	3000 Marcus Ave. Lake Success, NY 11042	<a href="mailto:aperlstein@hkplaw.com">aperlstein@hkplaw.com</a>	[REDACTED]	<input type="checkbox"/>
<b>Accountant</b>	David Chung	KLICHES LLP	19 Sylvan Ave Englwood Cliffs NJ 07632	<a href="mailto:David.chung@kliches.com">David.chung@kliches.com</a>	[REDACTED]	<input type="checkbox"/>
<b>Consultant/Other</b>						<input type="checkbox"/>

## C. APPLICABLE FINANCIAL ASSISTANCE

Provide the estimated value of each of the following types of Project Financial Assistance being requested. Discuss the estimation of the Requested Financial Assistance with your assigned Project Manager, if needed.

Requested Financial Assistance	Estimated Value of Requested Financial Assistance
Real Estate Tax Benefits	\$
Sales Tax Waiver	\$
Mortgage Recording Tax Benefit	\$

## D. APPLICANT BACKGROUND

Provide a brief description of the Applicant's history and the nature of its business. Feel free to include information from Applicant's website or other official documentation describing the Applicant. Include information such as when the Applicant was founded, who founded the Applicant, a brief history of the Applicant, the Applicant's primary services and market, and the number of the Applicant's employees in NYC and elsewhere. **Limit the description to 250 words.**

See Attachment 1 description of Bogopa-Food Bazaar

<sup>1</sup> Please select the individual to whom questions should be directed and who may speak on behalf of the Applicant.

## E. PROPOSED PROJECT ACTIVITIES

Describe the proposed Project, including its purpose and Project Location, in the text box below. Refer to the example below.

See Attachment 2 – Description of the project

**Example:** [Applicant Name] (“Applicant”) is a [supermarket operator and/or supermarket developer]. Applicant is seeking financial assistance in connection with the [list Project activities, such as acquisition, construction, furnishing, equipping, etc.] of a [ ] square foot [building or retail condominium] (the “Project”) [to be located within a [ ] square foot mixed-use facility] on a [ ] square foot parcel of land at [address] (the “Facility”). The Facility will be owned by [Applicant or Holding Company] and operated by [Company Name] as a [Banner] supermarket. The total development cost is approximately [Project cost]. The anticipated closing date is [ ]. The project is anticipated to be completed in \_\_\_\_ [months or years].

## F. PROJECT LOCATION DETAIL

Complete this table for *each* Project Location with a distinct Block/Lot. For Projects with more than one Block/Lot, copy the Project Location table below and paste it directly underneath to complete it.

Project Location Information		
Project Address: 1100 Myrtle Ave Brooklyn, NY 11206		Location # of
Borough/Block/Lot: Brooklyn/1586/0012	Community Board #: 3	Neighborhood: Bedford Stuyvesant
Square footage of land: 47,108	Square footage of existing building: 19,000	Number of Floors: 1
How is the anticipated Project Location currently used and what percentage is currently occupied?		100
In the case of relocation, what will happen with the Applicant’s current facility? N/A		
Is there any space at the Project Location that is currently being/will be occupied and/or used by any entity other than the Applicant or operating company, whether Affiliates or otherwise? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach a separate page and provide details about tenants such as (1) name of tenant business(es) (whether Affiliates or otherwise), (2) square footage of tenant operations, (3) tenant occupancy commencement and termination dates, and (4) copies of leases, licenses, or other documents evidencing a right to possession or occupancy.  For the purposes of this question, any license or other right of possession or occupancy granted by the Applicant or operating company with respect to the Project Location shall be deemed a tenancy.		
Construction Information		
Construction Start Date (as defined in the Policies and Instructions): 4/2021		
Facility Operations Start Date (as defined in the Policies and Instructions): 7/2023		
Does the Project involve the construction of a new building or an expansion/renovation of an existing building? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, please complete the following questions and attach a separate page and provide drawings, plans, or a description of the proposed work.		
Does the Project involve subsurface disturbance or excavation? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Anticipated square footage of Facility after construction and/or renovation: 35,620 SQFT		
Anticipated square footage of <i>non-building improvements</i> after construction and/or renovation (e.g. parking lot construction):		
Please describe any <i>non-building improvements</i> on a separate page.		
Square feet of grocery space created: 20,000 SQFT		
Percentage of retail space for perishable goods: 60%		
Square feet of retail space for fresh produce: 10,000 SQFT		
Are energy efficiency improvements or the installation of a renewable energy system anticipated as part of the Project? <sup>2</sup> yes		
Which of the below statements best reflects your current stage in the contractor procurement process?		
<input checked="" type="checkbox"/> A contractor has been selected and the procurement process is complete.		
<input type="checkbox"/> The procurement process has begun but a contractor has not been selected. Selection is anticipated by:		

<sup>2</sup> More information on free energy efficiency advisory services can be found [here](#).

The procurement process has not begun. Procurement is anticipated to begin by:  
 Other: **TBD**  
 Not applicable

**Zoning Information**

Current zoning of Project Location: C4-4L  
 Is a zoning variance or special permit required for the Project to proceed at this Location?  Yes  No  
 If yes, attach a separate page and describe the zoning variance or special permit required, which agencies are involved, and the anticipated schedule for zoning approval.  
 Is the Project subject to any other city, state or federal approvals?  Yes  No  
 If yes, attach a separate page and describe the approval required, and if applicable, list any other environmental review that may be required.: **see the attachment 3 approval**  
 Is the Project subject to a tax lot or condominium apportionment?  Yes  No  
 If yes, attach a separate page and describe the approvals required, and the anticipated schedule for approval. **see the attachment 3- approval**  
 Is the Project Location a designated historic landmark or located in a designated historic district?  Yes  No  
 Is the Project Location within the NYC Coastal Zone Boundary?  Yes  No

Intended use(s) of site (check all that apply):  Non-Supermarket Retail %  Office %  Restaurant %  Other %  
 Residential 87.5% For residential use, please describe number of units, % affordable and affordable housing financing : 233 rental units **see the attachment 3 - approval**

## G. ANTICIPATED OWNERSHIP

1. Check the accurate description of the Project Location's anticipated ownership.

<input type="checkbox"/> Applicant or an Affiliate is/expects to be the Project Location's fee simple owner.	(Projected) Acquisition date:
<input type="checkbox"/> Applicant or an Affiliate leases/expects to lease the Project Location. <input type="checkbox"/> Lease is for an entire building and property. <input type="checkbox"/> Lease is for a portion of the building and/or property.	(Projected) Lease signing date: (Projected) Possession date:
<input type="checkbox"/> Neither of the above categories fully describes Applicant's interest or intended interest in the Project Location. Describe the anticipated ownership of the Project Location premises:	

2. Does/will an Affiliate own/control the Project Location?  Yes  No

If yes, complete the table below:

Name of Affiliate: Spenceran, Inc.	Address of Affiliate: 3302 Skillman Ave Long Island City, NY 11101
Affiliate is (check one of the following, as applicable):	
<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership
<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Natural Person
<input checked="" type="checkbox"/> Business Corporation	<input type="checkbox"/> Other:
<input type="checkbox"/> S Corporation	

## H. PROJECT FINANCING

1. **Sources of Financing.** Provide amounts as aggregates for all Project Locations. Add table rows, if needed.

Sources	Total Amount	Percent of Total Financing
Equity	██████████	20%
Commercial Loan (Bank Name: Chase)	██████████	80%
New York City Public Funds	\$	%
Source:	\$	%
Source:	\$	%
New York State Public Funds	\$	%
Other:	\$	%
<b>Total</b>	██████████	100%

2. Mortgage amount on which tax is levied (exclude SBA 504 financing<sup>3</sup>):
3. Anticipated closing date between the Issuer and the Project Company: 6/2020
4. **Uses of Financing.** Provide amounts as aggregates for all Project Locations

Uses	Total Amount	Percent of Total Financing
<b>Land and Building Acquisition</b>	\$	%
<b>Construction Hard Costs</b> (i.e. site excavation, building materials, labor, landscaping, construction materials, etc.)		38%
<b>Construction Soft Costs</b> (i.e. pre-planning, legal, financing, design, etc.)		7%
<b>Furnishings, Fixtures, &amp; Equipment (FF&amp;E) and Machinery &amp; Equipment (M&amp;E)</b> (i.e. generators, desks, chairs, electronic equipment, specialized manufacturing equipment, assembly equipment, etc.)		45%
FF&E purchased in NYC		
M&E purchased in NYC		
<b>Closing Fees</b> (costs associated the execution of deal, i.e. debt service reserve fund, financing fees, loan origination fees, attorney fees, pre-payment penalties, etc.)		7%
<b>Other (please describe):</b>		4%
<b>Total</b>		100%

4a. Indicate anticipated budgeting of Hard Costs:    Electrical: 20%    Carpentry: 20%    Painting: 20%    Plumbing: 20%  
 Excavation or Demolition: 20%    Other: %

4b. Indicate anticipated budgeting of Soft Costs:    Architecture: 80%    Engineering: 10%    Design: 10%    Other: %

## I. EMPLOYMENT INFORMATION

The following information will be used as part of the Agency’s calculation of the Project’s benefit to the City, and as a basis for comparison with the employment information that the Applicant will be required to report on an annual basis for the term of the Project Agreement (as defined in the Policies and Instructions).

### 1. Job Creation Schedule for the Applicant

For all responses in the table below, part-time (“PT”) employees are defined as those working between 17.5 and 35 hours per week on average, and full-time (“FT”) employees are defined as those working 35 hours or more per week. Hourly wages in Columns E & F should represent the pay rate and are exclusive of overtime. For salaried employees, divide the annual salary by 1,820 working hours per year to calculate an hourly wage.

Information included in Column C below will be used to determine eligibility for participation in the HireNYC Program. For program information, see Additional Obligations document. If eligible for the HireNYC Program participation, NYCEDC will provide additional details.

A Job Category	B # of NYC jobs retained by Project	C # of jobs to be added in each year at Project Location in first 3 years of operation to be employed by Applicant			D Total # of Jobs at Project Location in first 3 years of operation (Sum of all Columns B and C)	E Average hourly wage for Year 1	F Lowest hourly wage for Year 1	G Average Fringe Benefit for retained jobs	H Average Fringe Benefit for created jobs
		Year 1: 2020	Year 2: 2020	Year 3: 2020					
FT Executive level						\$		\$	\$
FT Manager level	4				4	\$30.7		\$5,000/Y	\$5,000/Y
FT Staff level	34	1	4	4	43	\$18.6		\$	\$
<b>Total FT Employees</b>	38				47	\$20.8	\$17.2	\$20,000	\$20,000 / Y
<b>Total PT Employees</b>	37	5	5	6	53	\$17.1	\$16.7	\$	\$

<sup>3</sup> The SBA 504 Loan Program, administered by the Small Business Administration, is designed to provide small businesses with long-term financing to acquire and improve major fixed assets, such as owner-occupied commercial real estate and heavy machinery.

2. Of the Total Jobs at Project Location in Column D, how many employees are/will be NYC residents?<sup>100</sup>
3. Does the Project currently have, or anticipate having, contract or vendor employees<sup>4</sup> at the Project Location?  Yes  No
4. Generally describe all other forms of compensation and benefits that permanent employees will receive (i.e. healthcare, employer contributions for retirement plans, on-the-job training, reimbursement for educational expenses, etc.), including amounts for different employee titles. See the attachment #H.Hiring plan
5. Will the Applicant or any of its Affiliates be required to provide health coverage to its employees pursuant to the federal Patient Protection and Affordable Care Act (the "Act")?  Yes  No  
If yes, provide an overview of the applicable requirements under the Act and an explanation of how Applicant plans to comply with such requirements. If no, explain why and provide a FT employee count using the Act "[FTE Employee Calculator](#)". Insurance will be provided by respective Union accordingly based on seniority and job title
6. Is the Applicant currently providing paid sick time to employees in accordance with the Earned Sick Time Act (Chapter 8 of Title 20 of the NYC Administrative Code) and otherwise in compliance with such law?  Yes  No  
If yes, provide an explanation of your company's paid and unpaid sick time policy. If No, explain why and provide a table which outlines the number of anticipated employees and hours worked per calendar year.<sup>5</sup> Bogopa provides employees with paid sick days so that they can recover from illnesses. The amount of sick days provided to you may vary depending on store location (applicable state, city or local law), full-time status, seniority, and the respective Union contract. Employee can consult its union contract as well as applicable state/city or local law addendums, to determine how many sick days employee is entitled to. Whether they will be paid for accrued sick time at the end of the year or at termination is governed by each union contract and applicable state, city or local law.
7. Will the Project use an apprenticeship program approved by the New York State Department of Labor?  Yes  No

## J. LABOR

The Applicant and its Affiliates hereinafter will be referred to collectively as the "Companies" or individually as a "Company." If none of the following questions apply to any of these Companies, answer *No*. For any question that does apply, be sure to specify to which of the Companies the answer is relevant.

1. Have any of the Companies during the current calendar year or any of the five preceding calendar years experienced labor unrest situations, including actual or threatened labor strikes, hand billing, consumer boycotts, mass demonstrations or other similar incidents?  
 Yes  No If Yes, explain on an attached sheet.
2. Have any of the Companies received any federal and/or state unfair labor practices complaints asserted during the current calendar year or any the five calendar years preceding the current calendar year?  
 Yes  No If Yes, describe and explain current status of complaints on an attached sheet.
3. Do any of the Companies have pending or threatened requests for arbitration, grievance proceedings or other labor disputes during the current calendar year or any of the five calendar years preceding the current calendar year?  
 Yes  No If Yes, explain on an attached sheet.
4. Are any of the Companies' employees *not* permitted to work in the United States?  
 Yes  No If Yes, provide details on an attached sheet.
5. Is there any period for which the Companies did not complete and retain or do not anticipate completing and retaining all required documentation related to this inquiry, such as Employment Eligibility Verification (I-9) forms?  
 Yes  No If "Yes," explain on an attached sheet.
6. Has the United States Department of Labor, the New York State Department of Labor, the New York City Office of the Comptroller or any other local, state or federal department, agency or commission having regulatory or oversight responsibility with respect to workers and/or their working conditions and/or their wages, inspected the premises of any Company or audited the payroll records of any Company during the current or preceding three year calendar years?  
 Yes  No If "Yes," use an attached sheet to briefly describe the nature and date of the inspection and the inspecting governmental entity. Briefly describe the outcome of the inspection, including any reports that may have been issued and any fines or remedial or other requirements imposed upon any of the Companies as a consequence.
7. Have any of the Companies incurred, or potentially incurred, any liability (including withdrawal liability) with respect to an employee benefit plan, including a pension plan?  
 Yes  No If "Yes," use an attached sheet to quantify the liability and briefly describe its nature. Refer to any

<sup>4</sup> Contract or vendor employees are independent contractors (i.e. persons who are not "employees") or are employed by an independent contractor, who provide services at a Project Location.

<sup>5</sup>Information on the Paid Sick Leave Law can be found: [here](#)

governmental entities that have had regulatory contact with the Company in connection with the liability.

8. Are the practices of any of the Companies now, or have they been at any time during the current or preceding five calendar years, the subject of any complaints, claims, proceedings or litigation arising from alleged discrimination in the hiring, firing, promoting, compensating or general treatment of employees?

Yes  No

If "Yes," provide details on an attached sheet. Note "discrimination" includes sexual harassment.

## K. FINANCIALS

- Has the Applicant, Affiliate(s), Principal(s), or any close relative of the Principal(s), ever received, or is any such person or entity currently receiving, financial assistance or any other kind of non-discretionary benefit from any Public Entities?
 

Yes  No If Yes, provide details on an attached sheet.
- Has Applicant, or any Affiliate or Principal, or any existing or proposed occupant at the Project Location(s), obtained, or is any such person or entity in the process of obtaining, or contemplating obtaining, other assistance from the NYCIDA/Build NYC and/or other Public Entities?
 

Yes  No If Yes, provide details on an attached sheet. See the attachment Q-K2 Fresh Summary
- Has Applicant, or any Affiliate or Principal, ever defaulted on a loan or other obligation to a Public Entity?
 

Yes  No If Yes, provide details on an attached sheet.
- Has real property in which Applicant, or Affiliate or Principal, holds or has ever held an ownership interest and/or controlling interest of 25 percent or more, now or ever been (i) the subject of foreclosure (including a deed in lieu of foreclosure), or (ii) in arrears with respect to any type of tax, assessment or other imposition?
 

Yes  No If Yes, provide details on an attached sheet.
- Does Applicant, or any Affiliate or Principal, have any contingent liabilities not already covered above (e.g., judgment liens, lis pendens, other liens, etc.)? Include mortgage loans and other loans taken in the ordinary course of business only if in default.
 

Yes  No If Yes, provide details on an attached sheet.
- Has Applicant, or any Affiliate or Principal, failed to file any required tax returns as and when required with appropriate governmental authorities?
 

Yes  No If Yes, provide details on an attached sheet.
- In the table below, provide contact information for the Applicant's references. If the space provided below is insufficient, provide complete information on an attached sheet. List any "Major Customers" (those that compose more than 10% of annual revenues) and any "Major Suppliers" (those that compose more than 10% of goods, services, and materials).

Reference Type	Company Name	Address	Contact Person	Phone	Fax	Email	% of Inventory
Major Suppliers	Bozzuto, Inc.	275 Schoolhouse Road Cheshire, CT 06410	Steve Heggelke	[REDACTED]		steveh@bozzutos.com	30%
							%
Unions	Local 342	166 East Jericho Turnpikes, Mineola, NY 11501	Debra Dunn	[REDACTED]		<a href="mailto:ddunn@ufcw342.org">ddunn@ufcw342.org</a>	
Banks	Chase	383 Madison Ave 22 <sup>nd</sup> Fl. New York, NY 10017	Ryan J. McDonald	[REDACTED]		ryan.j.mcdonald@jpmorgan.com	

## L. ANTI-RAIDING

1. Will the completion of the Project result in the relocation of any plant or facility located within New York State, but outside of New York City, to New York City?  Yes  No

If "Yes," provide the names of the owners and addresses of the to-be-removed plant(s) or facility(ies):

2. Will the completion of the Project result in the abandonment of any plants or facilities located in an area of New York State other than New York City?  Yes  No

If "Yes," provide the names of the owners/operators and the addresses of the to-be-abandoned plant(s) or facility(ies):

If the answer to question 1 or 2 is "Yes," answer questions 3 and 4.

3. Is the Project reasonably necessary to preserve the competitive position of this Applicant, or of any proposed occupants of the Project, in its industry?  
 Yes    No
  
4. Is the Project reasonably necessary to discourage the Applicant, or any proposed occupant of the Project, from removing such plant or facility to a location outside New York State?  
 Yes    No

If the answer to question 3 or 4 is "Yes," provide a detailed explanation in a separate document.

## M. COMPLIANCE WITH LAW

1. The Applicant and any owner or occupant of the proposed project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.    Yes    No
2. The proposed project, as of the date of this application, is in compliance with all provisions of Article 18-A of the General Municipal Law, including, but not limited to the provisions of Section 859-a and Section 862(1) thereof.    Yes    No

## N. SUPERMARKET DEVELOPMENT & OPERATIONS

1. Will the Project Location participate in the Supplemental Nutrition Assistance Program ("SNAP")?    Yes    No  
 If "No," please describe why:
  
2. Will the Project Location participate in the Special Supplemental Nutrition Program for Women, Infants and Children ("WIC")?    Yes    No  
 If "No," please describe why:

3. Please describe the Applicant pricing strategy for Project Location and Affiliate track record of success operating supermarkets in other New York City neighborhoods

We provide the freshest products with the lowest price for the community and operate 26 supermarkets in Tri-state area.

4. Will the Project Location participate in any other community-focused programs or partnerships (e.g. senior discounts, cooking demonstrations, volunteer days, etc.)?    Yes    No

If "Yes," please describe each activity and its frequency (e.g. daily senior discounts, weekly healthy cooking demonstrations, etc.):

5. Do Applicant and/or its Affiliates own and/or operate other supermarkets or supermarket-related businesses in New York City?  
 Yes    No

If "Yes," please complete the following table and add rows as needed:

Store & Company Name	Address	Size (sf)	Years in Operation	Owned or Leased
	Please see the attachment 4_entity name			

6. Do the Applicant and/or its Affiliates own and/or operate any other businesses in New York City?    Yes    No

If "Yes", please describe the nature of business and years in operation:

7. Has the Project Location been approved for/is currently seeking FRESH Zoning benefits?    Yes    No

If "Yes", please describe the applicable FRESH Zoning benefits (i.e. additional development rights, reduction in required parking, larger as-of-right in M1), primary applicant company, and anticipated schedule for approval:

## O. ADDITIONAL QUESTIONS

1. How does the Applicant intend to utilize the tax savings provided through the NYCIDA? We plan to use the saving for sourcing better products to provide fresher products to community and for store renovation and maintenance to provide better condition to customers
2. What are the primary sources of revenue supporting Applicant's operations? It will be by selling grocery and produces to community customers.
3. If the Applicant's income statement categorizes any revenues as "Other operating revenues," describe what revenues are captured in that category: Commission from lottery, bottle deposit, ATM, vending machine, etc  N/A
4. If the Applicant's income statement categorizes any revenues as "*Other* general and administrative," describe what revenues are captured in that category:  N/A



# CERTIFICATION

**I, the undersigned officer/member/partner of Applicant, on behalf of Applicant and its Affiliates, hereby request, represent, certify, understand, acknowledge and agree as follows:**

**I request** that this Application, together with all materials and data submitted in support of this Application (collectively, these "Application Materials"), be submitted for review to the Agency's Board of Directors (the "Board"), in order to obtain from the Board an expression of intent to provide the benefits requested herein for the Project.

**I certify** that I have the authority to sign these Application Materials on behalf of, and to bind, Applicant and its Affiliates.

**I certify** under penalty of perjury to the best of my knowledge and belief, after due investigation, that the information contained in these Application Materials is accurate, true and complete and does not contain a misstatement of a material fact or omit to state a material fact necessary to make the statements contained herein not misleading. I understand that an intentional misstatement of fact, or, whether intentional or not, a material misstatement of fact, or the providing of materially misleading information, or the omission of a material fact, may cause the Board to reject the request made in the Application Materials. I understand that the Agency will rely on the information contained within these Application Materials in producing and publishing a public notice and convening a public hearing. If any information in these Application Materials is found to be incorrect, the Applicant may have to provide new information and a new public notice and public hearing may be required. If a new public notice and public hearing is required, they will be at the Applicant's expense.

**I acknowledge** that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of Agency involvement in the project.

I further understand and agree as follows:

**That** notwithstanding submission of this Application, the Agency shall be under no obligation to present Applicant's proposed Project to the Board for approval. If the Agency presents Applicant's proposed Project to the Board for approval, the Agency does not guaranty that such approval will be obtained. If upon presenting Applicant's proposed Project to the Board for approval the Agency obtains such approval, such approval shall not constitute a guaranty from the Agency to Applicant that the Project transaction will close.

**That** preparation of this Application and any other actions taken in connection with the proposed Project shall be entirely at Applicant's sole cost and expense. Under all circumstances, the Application Fee is non-refundable, including but not limited to the circumstance where the Agency decides, in its sole discretion, to not present Applicant's proposed project to the Board for Approval.

**That** each of Applicant and each of its Affiliates (collectively, the "Indemnitors") hereby releases the Agency and NYCEDC and their respective directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all claims that any Indemnitor has or could assert and which arise out of, or are related to, any Application Materials, any actions taken in connection therewith or any other actions taken in connection with the proposed Project (collectively, the "Actions"). Each Indemnitor hereby indemnifies and holds harmless each of the Indemnitees from and against any and all claims and damages brought or asserted by third parties, including reasonable attorneys' fees, arising from or in connection with the Actions. As referred to herein, "third parties" shall include, but shall not be limited to, Affiliates.

**That** in the event the Agency discloses the Application Materials in response to a request made pursuant to FOIL, Applicant hereby authorizes the Agency to make such disclosure and hereby releases the Agency from any claim or action that Applicant may have or might bring against the Agency, their directors, officers, agents, employees and attorneys, by reason of such disclosure; and that Applicant agrees to defend, indemnify and hold the Agency and the NYCEDC and their respective directors, officers, agents, employees and attorneys harmless (including without limitation for the cost of reasonable attorneys' fees) against claims arising out of such disclosure as such claims may be made by any party including the Applicant, Affiliate, Owner or Principal, or by the officers, directors, employees and agents thereof.

**That** capitalized terms used but not defined in this Application have the respective meanings specified in the Policies and Instructions.

**I acknowledge and agree that the Agency reserves its right** in its sole and absolute discretion to request additional information, waive any requirements set forth herein, and/or amend the form of this Application, to the full extent permitted by applicable law.

**Requested, Represented, Certified, Acknowledged, Understood and Agreed by Applicant,**

I certify that, using due care, I know of no misstatement of material fact in the Application Materials, and know of no material fact required to be stated in the Application Materials to make the statements made therein not misleading. **Certified by Preparer,**

**This 17th day of January, 2023.** \_\_\_\_\_

**This 17th day of January, 2023.**

**Name of Applicant:** Spenceran, Inc. \_\_\_\_\_

**Name of Preparer:** Kirk Hwang \_\_\_\_\_

**Signatory:** Spencer An \_\_\_\_\_

**Signatory:** \_Kirk Hwang \_\_\_\_\_

**Title of Signatory:** CEO \_\_\_\_\_

**Title of Signatory:** Director of accounting/finance \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Signature:** \_\_\_\_\_